

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

08 Cr. 036 (JGK)

**Eric Peels,** :

Defendant. :

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**DECLARATION OF ERIC PEELS**

I, Eric Peels, hereby declare under the penalties of perjury,  
pursuant to 28 U.S.C. § 1746, that:

1. I am the defendant in the above-captioned case. I make this declaration in support of a motion pursuant to Rules 12(b)(3) and 41 of the Federal Rules of Criminal Procedure to suppress evidence obtained from an apartment where I was staying, and statements obtained from me by law enforcement authorities, in violation of my constitutional rights. Because the only purpose of this declaration is to show that my constitutional rights were violated, I have not included every detail of what occurred.
2. On September 29, 2007, I was a guest staying in Apartment 3K at 3540 Decatur Avenue, in the Bronx. The individual renting the apartment, whom I knew as Sister Pat, was also present.
3. At that time, the back room of the apartment contained, among other things, a bed and a dresser. The bed consisted of a wooden frame and a single mattress.
4. Sometime in the afternoon, while I was standing in the hallway outside of the back room, I heard banging on the front door of the apartment and shouts of "Police!" Moments later, officers barged into the apartment with guns drawn, heading towards me and yelling, among other things, "Put your hands up! Put your hands up!"
5. As the police moved towards me I backed up into the back room with my hands raised above my head. I stopped moving and was surrounded by police officers. I was handcuffed with my hands behind my back, patted down, and brought outside of the back room.

6. I knew several of the police officers who entered the apartment.
7. After I was handcuffed and brought outside of the back room, and although there were officers standing between me and the entranceway to the back room, I could see from where I was standing that officers were searching within the back room. One officer was opening the drawers of a dresser, and another was lifting the mattress. This officer lifted one corner of the mattress at a time, and then lowered the mattress before lifting the next corner. After the officer lifted the fourth corner of the mattress, he came into the room where I was standing with the other officers and said, "I found something." The officer was holding a sock.
8. I was never asked whether I consented to the police entering the apartment or conducting a search, and at no point did I give the officers consent to enter or search the apartment. I never heard the police ask Sister Pat for her consent to enter the apartment or conduct a search, and at no point did I hear her give the officers consent to enter or search the apartment.
9. At no time was I advised of my rights.

**Wherefore**, it is respectfully requested that this Court enter an order suppressing (1) the evidence recovered from the Decatur Avenue apartment by the officers on September 29, 2007, which was obtained in violation of the Fourth Amendment to the United States Constitution; and (2) statements obtained from me by law enforcement authorities as a result of the unconstitutional search and arrest.

I declare under the penalty of perjury that the foregoing is true and accurate.

Dated: Brooklyn, New York  
July 3, 2008

  
Eric Peels